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COMMISSION ON HUMAN RIGHTS

Fourth special session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 27 September 1999, at 3 p.m.

Chairperson: Ms. ANDERSON

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LETTER DATED 9 SEPTEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (continued)

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GE.99-15743 (E)

The meeting was called to order at 3.05 p.m.

LETTER DATED 9 SEPTEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (agenda item 3) (continued) (E/CN.4/S-4/2; E/CN.4/S-4/L.1/Rev.1)

1. The CHAIRPERSON said she understood that delegations still had some way to go before any action could be taken.

2. Mr. HUHTANIEMI (Finland) said work was still continuing on the draft resolution.

3. The CHAIRPERSON suggested suspending the meeting to allow delegations more time to deliberate.

4. It was so decided.

The meeting was suspended at 3.10 p.m. and resumed at 5.15 p.m.

5. Mr. HUHTANIEMI (Observer for Finland), introducing draft resolution E/CN.4/S-4/L.1/Rev.1 on the situation of human rights in East Timor and speaking on behalf of the European Union, said that Costa Rica, Guatemala and Paraguay had joined the list of sponsors. The draft resolution welcomed the establishment of the Fact-Finding Commission for Post-Ballot Human Rights Violations in East Timor by the Indonesian National Commission on Human Rights and looked forward to the concrete results of its work in close cooperation with international bodies. The seriousness of the violations of human rights and international humanitarian law in East Timor warranted an internationally-led inquiry. Such an inquiry, working in cooperation with the Indonesian National Commission on Human Rights and the thematic rapporteurs, should shed light on recent events.

6. Although divergencies of opinion on certain key points remained, his delegation hoped that the draft resolution would be perceived as being constructive and cooperative in spirit.

7. Mr. WIRAJUDA (Indonesia) said that his Government questioned the legality and merit of holding the present special session, especially as it had been convened by bending the rules of procedure and thus revealing the bias of the secretariat of the Office of the High Commissioner for Human Rights. That fact alone had created an unhealthy precedent and undermined trust in the Office of the High Commissioner.

8. His Government, like those of other countries, condemned the violence and destruction which had occurred in the aftermath of the ballot. The persons displaced by the disturbances were from pro-integration and pro-independence communities alike. Indonesian Government buildings had been destroyed. The Indonesian Government had been the first to launch swift humanitarian operations on a massive scale. The Indonesian military and police had guarded United Nations installations, protected journalists and escorted displaced persons to places of safety. The Indonesian Government had invited the international force to East Timor.

9. Indonesian concern at human rights violations had prompted his Government to establish an independent Fact-Finding Commission to investigate post-ballot human rights violations in East Timor. The Fact-Finding Commission's work would be open to international participation and there was no doubt that it would conduct a very thorough job. The Indonesian Government was also considering the establishment of a Special Court for Human Rights within its criminal court system.

10. Furthermore, the magnitude of the human rights problems in East Timor needed to be placed in proportion. It was by no means certain that mass killings had occurred. His delegation appealed to all sides to refrain from introducing inflammatory rhetoric into the debate.

11. Paragraph 6 of draft resolution E/CN.4/S-4/L.1/Rev.1 called upon the Secretary-General to establish an international commission of inquiry to investigate alleged human rights violations in East Timor and to submit a report to the Security Council. The Indonesian Government believed that the establishment of such a commission would in fact exacerbate the problems in East Timor. Accordingly, his delegation was willing to consider the possibility of formulating a consensus statement by the Chairperson through consultation with the European Union. It was important to go beyond political point-scoring and trying to look heroic in the eyes of domestic constituencies. There existed more effective and politically sensitive ways to secure accountability for human rights violations. In the case of Rwanda, for example, a Special Rapporteur had been appointed. The establishment of a Fact-Finding Commission by the Indonesian Government was therefore an appropriate response in the circumstances.

12. When discussing the issue of East Timor, the international community should also be aware of the extremely sensitive political transformation which was currently taking place in Indonesia. A high-handed, self-righteous and blatantly intrusive approach could provoke a strong nationalist backlash in the country. The Commission should also be aware that, in line with the constitutional transformations that were taking place in Indonesia, the current Indonesian Government was on the point of stepping down. It was certainly not in a position to commit itself or its successors to a policy decision on an issue as sensitive as that of East Timor.

13. His delegation therefore requested that a roll-call vote should be taken on draft resolution E/CN.4/S-4/L.1/Rev.1 and that paragraph 6 of the draft resolution should be voted on separately because of its particularly sensitive nature.

14. Mr. COMBA (Office of the High Commissioner for Human Rights) said that paragraphs 6, 7 (a) and 7 (c) of draft resolution E/CN.4/S-4/L.1/Rev.1 would have financial implications. Although the detailed financial requirements of the international commission of inquiry referred to in paragraph 6 had yet to be determined, indicative costs were estimated at $180,000. No provision had been made for such costs in the biennium 1998-1999, but it was envisaged that they could be met from existing resources. Related expenditures would be reflected in the second budget performance report for the biennium 1998-1999.

15. The estimated mission costs of the various special rapporteurs, special representatives and working groups referred to in paragraph 7 (a) of the draft resolution could be absorbed from within existing or proposed regular budget resources. The total cost of such missions was tentatively estimated at $91,000.

16. With regard to the development of the comprehensive programme of technical cooperation referred to in paragraph 7 (c), it was envisaged that, subject to the availability of funds, it could be financed from extrabudgetary resources contributed to the Office of the High Commissioner for Human Rights.

17. At the request of the representative of Indonesia, a vote was taken by roll-call on the retention of paragraph 6 of the draft resolution.

18. Austria, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Austria, Canada, Cape Verde, Colombia, Czech Republic, Democratic Republic of the Congo, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Latvia, Luxembourg, Mauritius, Mozambique, Norway, Peru, Poland, Romania, Rwanda, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Bangladesh, Bhutan, China, Cuba, India, Indonesia, Japan, Nepal, Philippines, Russian Federation, Sri Lanka, Sudan.

Abstaining: Argentina, Chile, Congo, Madagascar, Mexico, Morocco, Pakistan, Qatar, Republic of Korea, Senegal, Tunisia.

19. Paragraph 6 was retained by 27 votes to 12, with 11 abstentions.

20. Mr. JOUBLANC (Mexico) said that, although his delegation condemned the human rights violations which had occurred in East Timor, it also regretted the fact that the convening of the special session had been marked by controversy. To be effective, any action by the Commission on Human Rights had to be based on consensus, take account of the measures initiated by the international community and strengthen Indonesia's efforts to investigate and punish the perpetrators of the violence. It would have been preferable if negotiations between Indonesia and the European Union had resulted in a text which acknowledged and encouraged Indonesia's cooperation with the mechanisms of the Commission. Since paragraph 6 had not been drafted in that spirit, his delegation had abstained in the vote. Nevertheless, his delegation intended to vote in favour of the draft resolution as a whole.

21. Mr. RODRIGUEZ-CEDEÑO (Venezuela) said that, while regretting the failure to draft a consensus-based text, his delegation had supported the retention of paragraph 6 because it established a mechanism for Indonesian participation. Such participation should be mutual, positive and based on equal partnership between the Commission, the thematic rapporteurs and the Indonesian Government.

22. Mr. KATSURA (Japan), speaking in explanation of vote before the voting on draft resolution E/CN.4/S-4/L.1/Rev.1 as a whole, said that his Government had certain reservations about its content and felt compelled to abstain. In order to proceed with any measures relating to the situation in East Timor, the international community and the Indonesian Government should ideally be in agreement. However, that precondition had clearly not been fulfilled because Indonesia still had strong reservations about the establishment of an international commission of inquiry. Japan had extended its good offices to facilitate consultations among the parties concerned, but to no avail.

23. The draft resolution currently before the Commission did not enjoy wide support in the Asian region. In such circumstances, Japan had no choice but to abstain in the voting. It was also regrettable that the special session had been convened without wide support from Asian countries. If the special session had been convened with clear goals in mind and if those goals had been unambiguously explained to the Asian countries concerned, the result might have been different.

24. Mr. LABBE VILLA (Chile) said that his delegation was disappointed by the failure to achieve consensus on the draft resolution currently before the Commission. That failure was doubly disappointing because the Indonesian Government had shown its willingness to cooperate with the international community. Indonesia was experiencing an acute political and economic crisis and its cooperation was therefore all the more remarkable. The Indonesian Government fully deserved the support of the international community.

25. A resolution adopted by a vote was not a satisfactory response to the crisis in East Timor. Yet it was a better response than doing nothing and it was incumbent on the Commission to take a stand as the focal point for human rights within the United Nations system. It was vital that any resolution adopted by the Commission should form a basis for constructive international cooperation with a view to securing peace, justice and reconciliation in East Timor. Chile would therefore vote in favour of the draft resolution as a whole, despite having abstained in the separate vote on paragraph 6.

26. Mr. LEPATAN (Philippines) said that Indonesia had abided by its international commitment to hold a ballot in East Timor despite its domestic political and economic difficulties. Its cooperation with the international community had enormously facilitated the work of the Security Council. It had undertaken to establish a Fact-Finding Commission to investigate human rights violations in East Timor. His delegation believed that draft resolution E/CN.4/S-4/L.1/Rev.1 proposed a course of action which would not contribute to a durable and lasting solution to the problems of East Timor. Furthermore, an international commission of inquiry would simply duplicate and bypass the perfectly acceptable mechanism established by the Indonesian Government. The Philippines would therefore vote against the draft resolution.

27. At the request of the representative of Indonesia, a vote was taken by roll-call on the draft resolution.

28. Canada, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Austria, Canada, Cape Verde, Chile, Colombia, Congo, Czech Republic, Democratic Republic of the Congo, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Latvia, Luxembourg, Madagascar, Mauritius, Mexico, Mozambique, Norway, Peru, Poland, Romania, Rwanda, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Bangladesh, Bhutan, China, India, Indonesia, Nepal, Pakistan, Philippines, Qatar, Russian Federation, Sri Lanka, Sudan.

Abstaining: Cuba, Japan, Morocco, Republic of Korea, Senegal, Tunisia.

29. The draft resolution was adopted by 32 votes to 12, with 6 abstentions.

30. Mr. GONZALEZ (Argentina) said that, despite the failure to reach consensus, Argentina had voted in favour of the resolution because it condemned all human rights violations and specifically those which had occurred in East Timor. Nevertheless, paragraph 6 of the resolution had failed to acknowledge the cooperative attitude displayed by the Indonesian Government. A consensus resolution enjoying the support of Indonesia and other countries in the region would have commanded greater respect.

31. Mr. WIRAJUDA (Indonesia) said that the convening of the special session and the substance of the resolution just adopted had both been highly controversial. The moral authority of the Commission had been diminished. Indonesia had voted against the inclusion of paragraph 6 and the resolution as a whole, and hence neither decision was binding on his Government. Notwithstanding the resolution which had just been adopted, Indonesia would support the work and follow-up actions of the Fact-Finding Commission of its National Commission for Human Rights.

32. Mr. LIU Xinsheng (China) said that his Government had grave doubts about the legality of holding the current special session and did not agree with the content of the resolution just adopted. Article 12 of the Charter stated that, while the Security Council was exercising in respect of any dispute or situation the functions assigned to it in the Charter, the General Assembly must not make any recommendation with regard to that dispute or situation unless the Security Council so requested. The Security Council had already adopted a resolution mandating a multinational peacekeeping force to join Indonesian forces in East Timor with a view to guaranteeing peace and security in the region. China therefore believed that it was unduly precipitate to establish an international commission of inquiry. Such a commission would do nothing to solve the problem of East Timor. Moreover, it would constitute a serious violation of the Charter.

The meeting rose at 6.10 p.m.